

SENATE BILL 358

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By: **Senator Jones–Rodwell (Chair, Joint Committee on Pensions)**

Introduced and read first time: February 3, 2011

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Audit Responsibilities – Local Education Agencies, Community Colleges, and**
3 **Public Libraries – Employer Pension Contributions**

4 FOR the purpose of authorizing the State Department of Education, rather than the
5 State Retirement Agency, to conduct certain audits of local school systems and
6 public libraries to determine if certain employer contributions have been paid
7 appropriately to the State Retirement and Pension System; altering a provision
8 relating to the employees included for purposes of certain audits as eligible for
9 State payment of retirement contributions; authorizing the Maryland Higher
10 Education Commission, rather than the State Retirement Agency, to conduct
11 certain audits of public junior or community colleges to determine if certain
12 employer contributions have been paid appropriately to the State Retirement
13 and Pension System; requiring that certain reimbursements determined from
14 performing certain audits of local school systems, public junior or community
15 colleges, and public libraries be credited entirely to the General Fund; and
16 generally relating to performing audits of local school systems, public junior or
17 community colleges, and public libraries for purposes of determining if employer
18 contributions have been paid appropriately to the State Retirement and Pension
19 System.

20 BY repealing and reenacting, with amendments,
21 Article – Education
22 Section 5–203, 16–306, and 23–504
23 Annotated Code of Maryland
24 (2008 Replacement Volume and 2010 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
26 MARYLAND, That the Laws of Maryland read as follows:

27 **Article – Education**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 5-203.

2 (a) [In this section, "Agency" means the State Retirement Agency.

3 (b) (1) The [Agency] **DEPARTMENT** may at any time examine the records
4 of local school systems to determine whether the State's payments for retirement
5 contributions for employees of the school systems are in accordance with the
6 provisions of Division II of the State Personnel and Pensions Article.

7 (2) In making the determination under paragraph (1) of this
8 subsection, the [Agency] **DEPARTMENT** shall include as employees eligible for State
9 payment of retirement contributions those employees[:

10 (i) Whose salaries are funded by State or local aid, whether
11 general or categorical in nature; and

12 (ii) Who] **WHO** are members of the Teachers' Pension System or
13 Teachers' Retirement System.

14 [(c) (B) (1) (i) If an examination of the records of a local school
15 system shows that the State has paid more than is required under Division II of the
16 State Personnel and Pensions Article, within 30 days after the date of the notice to the
17 school system of the State overpayment, the school system may appeal the notice of
18 State overpayment to the Secretary of Budget and Management who shall appoint a
19 hearing examiner who is an attorney.

20 (ii) The hearing examiner shall make recommendations to the
21 Secretary of Budget and Management who shall make a determination regarding the
22 amount, if any, of the State overpayment.

23 (iii) Should a local school system request a transcript of an audit
24 appeals hearing, the local school system shall provide and pay for the production of the
25 transcript.

26 (2) At the request of the Department of Education the moneys owed
27 shall be deducted from any other State funds that would otherwise be paid to the
28 school system if:

29 (i) A local school system does not appeal to the Secretary of
30 Budget and Management or to the Office of Administrative Hearings; or

31 (ii) The Office of Administrative Hearings determines that the
32 State is due reimbursement for excess payments as provided in paragraph (3) of this
33 subsection.

1 (3) (i) The local school system may appeal to the Office of
2 Administrative Hearings a determination by the Secretary of Budget and
3 Management regarding the amount, if any, of the State overpayment.

4 (ii) Within 45 days after the close of the hearing record, the
5 Office of Administrative Hearings shall issue a written decision to the parties and may
6 grant any appropriate remedy.

7 (iii) The written decision issued by the Office of Administrative
8 Hearings is the final finding of fact and conclusion of law and binding on all parties
9 and is not subject to judicial review.

10 **[(d)] (C)** Any reimbursements which result from audits under this section[:

11 (1) Shall be applied first to reimburse the Agency for the expenses of
12 the audits; and

13 (2) After reimbursement to the Agency under item (1) of this
14 subsection,] shall be credited to the General Fund.

15 16–306.

16 (a) In this section, [“Agency”] **“COMMISSION”** means the [State Retirement
17 Agency] **MARYLAND HIGHER EDUCATION COMMISSION**.

18 (b) The [Agency] **COMMISSION** may at any time examine the records of
19 public junior or community colleges to determine whether the State’s payments for
20 retirement contributions for employees of the public junior or community colleges are
21 in accordance with the provisions of Division II of the State Personnel and Pensions
22 Article.

23 (c) (1) (i) If an examination of the records of a public junior or
24 community college shows that the State has paid more than is required under Division
25 II of the State Personnel and Pensions Article, within 30 days after the date of the
26 notice to the junior or community college of the State overpayment, the junior or
27 community college may appeal the notice of State overpayment to the Secretary of
28 Budget and Management who shall appoint a hearing examiner.

29 (ii) The hearing examiner shall make recommendations to the
30 Secretary of Budget and Management who shall make a final determination regarding
31 the amount, if any, of the State overpayment.

32 (2) If a public junior or community college does not appeal to the
33 Secretary of Budget and Management or if the Secretary of Budget and Management
34 determines that the State is due reimbursement for excess payments, as provided in
35 paragraph (1) of this subsection, at the request of the [Agency] **COMMISSION** the

1 moneys owed shall be deducted from any other State funds that would otherwise be
2 paid to the public junior or community college.

3 (3) For purposes of the Administrative Procedure Act, an appeal taken
4 under this section is not a contested case.

5 (d) Any reimbursements which result from audits under this section[:

6 (1) Shall be applied first to reimburse the Agency for the expenses of
7 the audits; and

8 (2) After reimbursement to the Agency under item (1) of this
9 subsection,] shall be credited to the General Fund.

10 23-504.

11 (a) [In this section, "Agency" means the State Retirement Agency.

12 (b)] The [Agency] **DEPARTMENT** may at any time examine the records of
13 public libraries to determine whether the State's payments for retirement
14 contributions for employees of the public libraries are in accordance with the
15 provisions of Division II of the State Personnel and Pensions Article.

16 [(c)] **(B)** (1) (i) If an examination of the records of a public library
17 shows that the State has paid more than is required under Division II of the State
18 Personnel and Pensions Article, within 30 days after the date of the notice to the
19 library of the State overpayment, the public library may appeal the notice of State
20 overpayment to the Secretary of Budget and Management who shall appoint a hearing
21 examiner.

22 (ii) The hearing examiner shall make recommendations to the
23 Secretary of Budget and Management who shall make a final determination regarding
24 the amount, if any, of the State overpayment.

25 (2) If a public library does not appeal to the Secretary of Budget and
26 Management or if the Secretary of Budget and Management determines that the State
27 is due reimbursement for excess payments as provided in paragraph (1) of this
28 subsection, at the request of the Department of Education the moneys owed shall be
29 deducted from any other State funds that would otherwise be paid to the public
30 library.

31 (3) For purposes of the Administrative Procedure Act, an appeal taken
32 under this section is not a contested case.

33 [(d)] **(C)** Any reimbursements which result from audits under this section[:

1 (1) Shall be applied first to reimburse the Agency for the expenses of
2 the audits; and

3 (2) After reimbursement to the Agency under item (1) of this
4 subsection,] shall be credited to the General Fund.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 July 1, 2011.